

Redfern
Hammond
King

SSB-1106
Judiciary

SENATE FILE SF/HF 347
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MADDOX)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act eliminating filing and service fees for plaintiffs seeking
2 relief from domestic abuse.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 236.3, unnumbered paragraph 2, Code
2 2001, is amended by striking the unnumbered paragraph and
3 inserting in lieu thereof the following:

4 The filing fee for an order for protection under this
5 chapter shall be waived for the plaintiff. The court
6 administrator, the sheriff of any county in this state, and
7 other law enforcement and corrections officers shall perform
8 their duties relating to service of process without charge to
9 the petitioner. The court may direct the defendant to pay to
10 the court administrator the plaintiff's filing fees and
11 reasonable costs of service of process if the court determines
12 the defendant has the ability to pay the plaintiff's fees and
13 costs.

14 Sec. 2. Section 236.19, subsection 5, Code 2001, is
15 amended as follows:

16 5. Filing and service costs in connection with foreign
17 protective orders ~~may-be~~ are waived ~~or-deferred~~ as provided in
18 section 236.3.

19 EXPLANATION

20 This bill eliminates filing and service of process fees for
21 plaintiffs seeking relief from domestic abuse, and allows the
22 court to determine whether these fees should be assessed to
23 the defendant. Current law allows the court discretion to
24 determine whether payment of filing and service of process
25 fees would prejudice the plaintiff's ability to provide
26 economic necessities for the plaintiff or the plaintiff's
27 dependents.

28 The bill is proposed to comply with the federal Violence
29 Against Women Act funding certification requirements.

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Substituted for HF 402
4/9/01
(P. 1114)

FILED MAR 5 01

SENATE FILE 347
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1106)

Passed Senate, (P. 685) Date 3/19/01 Passed House, (P. 1115) Date 4-9-01
Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 0
Approved April 18, 2001

A BILL FOR

1 An Act eliminating court costs and filing and service fees for
2 plaintiffs seeking relief from domestic abuse.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DF 541

1 Section 1. Section 236.3, unnumbered paragraph 2, Code
2 2001, is amended by striking the unnumbered paragraph and
3 inserting in lieu thereof the following:

4 The filing fee and court costs for an order for protection
5 under this chapter shall be waived for the plaintiff. The
6 clerk of court, the sheriff of any county in this state, and
7 other law enforcement and corrections officers shall perform
8 their duties relating to service of process without charge to
9 the petitioner. When an order for protection is entered by
10 the court, the court may direct the defendant to pay to the
11 clerk of court the plaintiff's filing fees and reasonable
12 costs of service of process if the court determines the
13 defendant has the ability to pay the plaintiff's fees and
14 costs.

15 Sec. 2. Section 236.19, subsection 5, Code 2001, is
16 amended to read as follows:

17 5. Filing and service costs in connection with foreign
18 protective orders ~~may-be~~ are ~~or-deferred~~ as provided in
19 section 236.3.

20 EXPLANATION

21 This bill eliminates court costs and filing and service of
22 process fees for plaintiffs seeking relief from domestic
23 abuse, and allows the court to determine whether these fees
24 should be assessed to the defendant. Current law allows the
25 court discretion to determine whether payment of filing and
26 service of process fees would prejudice the plaintiff's
27 ability to provide economic necessities for the plaintiff or
28 the plaintiff's dependents.

29 The bill is proposed to comply with the federal Violence
30 Against Women Act funding certification requirements.

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**SENATE FILE 347
FISCAL NOTE**

A fiscal note for **Senate File 347** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 347 eliminates the filing and service fees for plaintiffs seeking relief from domestic abuse.

ASSUMPTIONS

1. Iowa's current STOP Violence Against Women Formula Grants Program supports the equivalent of 65.74 FTE federal positions at the local level annually.
2. According to the U.S. Department of Justice, Iowa is not in compliance with the federal mandate. The federal mandate states that in order to qualify for STOP funds, the State must not require the victim to bear the costs associated with the filing of criminal charges against the offender.
3. Should Iowa fail to comply with the federal mandate, Iowa faces sanctions ranging from a percentage cut in STOP funding to suspension of the award in its entirety until Iowa's laws, policies, and practices are deemed to be in compliance.
4. If the State continues to charge for pro se no contact orders, the State risks impacting our eligibility to receive Discretionary Grant funding directly from the federal Violence Against Women Office.
5. Presently, Iowa has five pending Rural Domestic Violence and Child Victimization Grants and an additional three proposals that will be submitted for funding on or before March 14, 2001.
6. Due to decreased federal allocations, there has been a 15.0% reduction in STOP funding under current law.
7. The \$80 filing fee could be assessed to the defendant as a part of court costs.
8. Fees collected from pro se no contact orders were approximately \$72,000 in FY 1999 and \$123,000 in FY 2000. Approximately \$62,000 has been collected year-to-date for FY 2001.
9. In calendar year 2000, there were 5,497 no contact orders under Chapter 236.

FISCAL IMPACT

If the State of Iowa does not comply with the federal mandate, the State could lose up to approximately \$1.4 million in federal funding for domestic abuse shelters.

If the State does comply with the federal mandate, the General Fund would realize a decrease of approximately \$100,000 a year in filing fees, however, this could be assessed to the defendant as court costs.

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SOURCES

Judicial Department
Office of Drug Control Policy

(LSB 2396SV, JDD)

FILED MARCH 6, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

5. Filing and service costs in connection with foreign protective orders may-be are waived or-deferred as provided in section 236.3.

SENATE FILE 347

AN ACT
ELIMINATING COURT COSTS AND FILING AND SERVICE FEES FOR
PLAINTIFFS SEEKING RELIEF FROM DOMESTIC ABUSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 236.3, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The filing fee and court costs for an order for protection under this chapter shall be waived for the plaintiff. The clerk of court, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the petitioner. When an order for protection is entered by the court, the court may direct the defendant to pay to the clerk of court the plaintiff's filing fees and reasonable costs of service of process if the court determines the defendant has the ability to pay the plaintiff's fees and costs.

Sec. 2. Section 236.19, subsection 5, Code 2001, is amended to read as follows:

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 347, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 4/8/01, 2001

THOMAS J. VILSACK
Governor